

DOCKET NO. D-93-57-2

DELAWARE RIVER BASIN COMMISSION

**Blue Ridge Real Estate Company
Surface Water Withdrawal – Jack Frost Ski Area
Kidder Township, Carbon County, Pennsylvania**

PROCEEDINGS

This docket is issued in response to an application submitted by the Blue Ridge Real Estate Company on September 1, 2004, for renewal of an allocation of surface water and review of a surface water withdrawal project approved by the Delaware River Basin Commission (DRBC) on March 23, 1994. Condition “j.” of the 1994 docket decision required that this project be reviewed within ten years of the date of approval, and unless renewed, the approval would expire.

The application was reviewed for approval under Section 3.8 of the *Delaware River Basin Compact*. The Carbon County Planning Board has been notified of the application for this permit. A public hearing on this project was held by the DRBC on October 27, 2004.

DESCRIPTION

Purpose. The purpose of this project is to continue to supply up to 100 million gallons per thirty days (mg/30 days) to the docket holder’s existing snowmaking operations through an existing intake on Tobyhanna Creek, without an increase in the existing allocation.

Location. The project intake is located on Tobyhanna Creek near its confluence with the Lehigh River at River Mile 183.66-84.1-0.57, in Kidder Township, Carbon County, Pennsylvania.

Area served. The withdrawal serves the docket holder’s Jack Frost Ski Area during the annual ski season (November 15 through March 31). The service area includes medium density housing and ski slopes. The same intake facility was also approved by DRBC Docket No. D-91-46 (approved May 26, 1993) to serve the docket holder’s golf course resort community, currently under construction, as a source of irrigation during the annual growing season.

Physical features.

a. **Design criteria.** The docket holder's existing water demand is 3.33 million gallons per day for snowmaking during the ski season. No future increase in water demand is anticipated. An existing pump station at Tobyhanna Creek provides water to the snowmaking system. The pumps have a combined average withdrawal capacity of 2500 gallons per minute. Water is no longer used for compressor cooling, as the owner has installed a closed loop cooling system utilizing circulating pumps and radiators.

b. **Facilities.** The intake area is surrounded by a chain link fence covered by fine nylon webbing to prevent fish, leaves, twigs and debris from entering the intake pipe. In addition, two intake pipes are isolated from the stream by a concrete wet well with a sluice gate. The four intake pipes that are in the stream are six inches in diameter and each is protected by a 3' by 3' strainer basket with an expanded aluminum plate with openings of less than 3/8" by 3/8".

The project facilities are above the 100-year flood elevation.

c. **Other.** Domestic water is supplied by the docket holder's two wells which have a combined average withdrawal of less than 100,000 gallons per day.

Wastewater from the Jack Frost Ski Area is conveyed to the Blue Ridge Real Estate Company sewage treatment facility most recently approved by DRBC Docket No. D-85-81 on January 22, 1986. The treatment facility has adequate capacity to receive wastewater from the proposed project.

FINDINGS

The project is designed to conform to the requirements of the *Water Code* and *Water Quality Regulations* of the DRBC.

The DRBC estimates that the project withdrawals, used for the purpose of snowmaking, result in a consumptive use of 22 percent of the total water use. The DRBC definition of consumptive use is defined in Article 5.5.1.D of the *Administrative Manual – Part III – Basin Regulations – Water Supply Charges*.

The project does not conflict with the Comprehensive Plan and is designed to prevent substantial adverse impact on the water resources related environment, while sustaining the current and future water uses and development of the water resources of the Basin.

Near the project site, Tobyhanna Creek has a seven day low flow with a ten year recurrence interval of 14.5 million gallons per day (22.4 cubic feet per second (cfs)). The ratio of this low flow to the average daily water withdrawal is more than 4 to 1. The probability is low that withdrawal for snowmaking would occur concurrently with low flow in the source stream since greater than 98 percent of the time streamflow is greater than 17.83 mgd (Q_{7-10} flow plus the project withdrawal). Further, the mean flow during snowmaking season (November 15 through March 31) averages approximately 187.4 mgd (290 cfs). Therefore, during the snowmaking season, the withdrawal represents less than 2 percent of the mean flow.

DECISION

I. Effective on the approval date for Docket No. D-93-57-2 below:

a. Docket No. D-93-57 is rescinded and replaced by Docket No. D-93-57-2.

II. The project and appurtenant facilities as described in the Section entitled "Physical features" above are approved pursuant to Section 3.8 of the *Compact*, subject to the following conditions:

a. Docket approval is subject to all conditions, requirements, and limitations imposed by the PADEP, and such conditions, requirements, and limitations are incorporated herein, unless they are less stringent than the Commission's.

b. During the snowmaking season only (November 15 through March 31), in any 30-day period, the withdrawal from the project intake shall not exceed 100 million gallons. Prior to and after the snowmaking season, the docket holder's water use shall be restricted to its withdrawal limit for golf course irrigation as specified in Docket No. D-91-46.

c. The docket holder shall pay for surface water use in accordance with the provisions of Resolution No. 74-6, as amended.

d. The project withdrawal must not cause the streamflow to be less than 14.5 mgd at the point of taking. The docket holder shall monitor the passby flow as proposed by the docket holder in a letter dated September 16, 2004, relative to the existing USGS gage (No. 01447720) on Tobyhanna Creek. The gage is located approximately four river miles upstream of the project withdrawal, and when the Q_{7-10} flow is occurring at the USGS gage station, it can be extrapolated as occurring at the project intake and no withdrawal shall be made and the entire natural streamflow must be allowed to pass.

e. The project withdrawals shall be metered with an automatic continuous recording device that measures to within 5 percent of actual flow. An exception to the 5 percent performance standard, but no greater than 10 percent, may be granted if maintenance of the 5 percent performance is not technically feasible or economically practicable. A record of daily

withdrawals shall be maintained, and monthly totals shall be reported to the PADEP annually and shall be available at any time to the Commission if requested by the Executive Director.

f. The docket holder shall implement to the satisfaction of the PADEP, the continuous program to encourage water conservation in all types of use within the facilities served by this approval. The docket holder will report to the PADEP on the actions taken pursuant to this program and the impact of those actions as requested by the PADEP.

g. Nothing herein shall be construed to exempt the docket holder from obtaining all necessary permits and/or approvals from other State, Federal or local government agencies having jurisdiction over this project.

h. The area served by this project is limited to the service area as described above. Any expansion beyond this area is subject to review in accordance with Section 3.8 of the *Compact*.

i. This docket approval will expire on the expiration date indicated below unless the docket holder has submitted a complete application for renewal of this docket 12 months prior to the expiration date below, or permission has been granted by the DRBC for submission at a later date. In the event that a timely and complete application for renewal has been submitted and the DRBC is unable, through no fault of the docket holder, to reissue the docket before the expiration date, the terms and conditions of this docket will automatically continue and remain fully effective and enforceable pending the grant or denial of the application for docket approval.

j. The issuance of this docket approval shall not create any private or proprietary rights in the water of the Basin, and the Commission reserves the rights to amend, alter or rescind any actions taken hereunder in order to insure the proper control, use and management of the water resources of the Basin.

k. If the monitoring required herein, or any other data or information demonstrates that the operation of this project significantly affects or interferes with any domestic or other existing wells or surface water supplies, or if the docket holder receives a complaint by any user of wells or surface water supplies within the zone of influence of the withdrawal, the docket holder shall immediately notify the Executive Director of any complaints by users of wells or surface water supplies within the zone of influence of the withdrawal, and unless excused by the Executive Director, shall investigate such complaints. Any well or surface water supply which is substantially adversely affected, or rendered dry or otherwise unusable as a result of the docket holder's project withdrawal, shall be repaired, replaced or otherwise mitigated at the expense of the docket holder. A report of investigation and/or mitigation plan prepared by a hydrologist shall be submitted to the Executive Director as soon as practicable. The Executive Director shall make the final determination regarding the validity of such complaints, the scope or sufficiency of such investigations, and the extent of appropriate

mitigation measures, if required. The Executive Director may modify or suspend this approval, or require mitigating measures, pending additional review.

1. For the duration of any drought emergency declared by either Pennsylvania or the Commission, water service or use by the docket holder pursuant to this approval shall be subject to the prohibition of those nonessential uses specified by the Governor of Pennsylvania, the Pennsylvania Emergency Management Council, PADEP, or the Commonwealth Drought Coordinator to the extent that they may be applicable, and to any other emergency resolutions or orders adopted hereafter by the Commission.

BY THE COMMISSION

APPROVAL DATE:

EXPIRATION DATE: October 27, 2014